



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2094

DATE SCANNED 10-15-09

SCANNER NO. 2

SCAN OPERATOR chuw

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2009 JUN 12 P 1:02

June 12, 2009

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: ROBERT HICKEY  
STAFF DIRECTOR

FROM: JOHN D. GIBSON  
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: <sup>NKI</sup> NATALIYA IOFFE/RHIANNON MAGRUDER/SARI PICKERALL  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION-2009 APRIL  
QUARTERLY REPORT FOR THE ADMINISTRATIVE FINE PROGRAM

Attached is a list of political committees and their treasurers who failed to file the 2009 April Quarterly Report in accordance with 2 U.S.C. 434(a). The April Quarterly Report was due on April 15, 2009.

The committees listed in the attached RTB Circulation Report failed to file the report. In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

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**Recommendation**

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

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Federal Election Commission  
Reason to Believe Circulation Report  
2009 APRIL QUARTERLY Not Election Sensitive 04/15/2009 H\_S\_P

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2093	C00439869	BALDERMANN FOR CONGRESS	BALDERMANN, TIM	See footnote*	\$157,306	0		Not Filed	\$157,306 (est)	\$5,500
2094	C00450858	KENNETH EATON FOR US SENATE 2008	EATON, KENNETH	TONI EATON	\$170,061	1		Not Filed	\$170,061 (est)	\$6,875
2096	C00444331	RAUL MARTINEZ FOR CONGRESS	MARTINEZ, RAUL L	ELIZA RASSI	\$539,222	0		Not Filed	\$539,222 (est)	\$9,500
2097	C00437152	SCONTRAS FOR CONGRESS	SCONTRAS, DEAN P	GORDON A. DAVIS	\$129,423	0		Not Filed	\$129,423 (est)	\$4,500
2098	C00430959	VERNON JONES FOR GEORGIA	JONES, VERNON A	PATRICIA MOORE	\$190,636	1		Not Filed	\$190,636 (est)	\$6,875

\* Because of the treasurer liability issue concerning Baldermann for Congress, the Office of Administrative Review (OAR) has recommended that the Commission make a finding against the Committee and its Treasurer.   
 RAD recommends that the Commission make an RTB finding against the Committee and its Treasurer for failure to file the 2009 April Quarterly Report.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation - 2009 )  
April Quarterly Report for the )  
Administrative Fine Program: )  
KENNETH EATON FOR US SENATE ) AF# 2094  
2008. and TONI EATON as treasurer: )

RAUL MARTINEZ FOR CONGRESS, and ) AF# 2096  
ELIZA RASSI as treasurer; )  
SCONTRAS FOR CONGRESS, and ) AF# 2097  
GORDON A DAVIS as treasurer; )  
VERNON JONES FOR GEORGIA, and ) AF# 2098  
PATRICIA MOORE as treasurer: )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby  
certify that on June 15, 2009 the Commission took the following actions on the Reason  
To Believe Recommendation - 2009 April Quarterly Report for the Administrative Fine  
Program as recommended in the Reports Analysis Division's Memorandum dated June 12,  
2009, on the following committees:

AF#2094 Decided by a vote of 6-0 to: (1) find reason to believe that KENNETH EATON FOR US SENATE 2008, and TONI EATON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2096 Decided by a vote of 6-0 to: (1) find reason to believe that RAUL MARTINEZ FOR CONGRESS, and ELIZA RASSI as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2097 Decided by a vote of 6-0 to: (1) find reason to believe that SCONTRAS FOR CONGRESS, and GORDON A DAVIS as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2098 Decided by a vote of 6-0 to: (1) find reason to believe that VERNON JONES FOR GEORGIA, and PATRICIA MOORE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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Federal Election Commission  
Certification for Administrative Fines  
June 15, 2009

Page 3

Attest:

June 15, 2009  
Date

Mary W. Dove  
Mary W. Dove  
Secretary of the Commission

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**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

June 26, 2009

Toni Eaton as Treasurer  
Kenneth Eaton for US Senate 2008  
200 Church St., Suite 301  
Nashville, TN 37201

C00450858  
AF#: 2094

Dear Ms. Eaton:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an April Quarterly Report of Receipts and Disbursements every calendar year. This report, covering the period through March 31st, shall be filed no later than April 15th. 2 U.S.C. § 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date. You should file this report if you have not already done so.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On June 15, 2009, the FEC found that there is reason to believe ("RTB") that Kenneth Eaton for US Senate 2008 and you as treasurer violated 2 U.S.C. § 434(a) by failing to file timely this report on or before April 15th. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$6,875. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$6,875 is due within forty (40) days of the due date, or by July 25, 2009, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$170,061  
Number of Days Late: Not Filed  
Number of Previous Civil Money Penalties Assessed: 1

At this juncture, the following courses of action are available to you:

**1. If you Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street,

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NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or July 25, 2009. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Kenneth Eaton for US Senate 2008 and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.45.

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**3. If you Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Steven T. Walther  
Chairman

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$6,875 for the 2009 April Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by July 25, 2009. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Kenneth Eaton for US Senate 2008

FEC ID#: C00450858

AF#: 2094

PAYMENT DUE DATE: July 25, 2009

PAYMENT AMOUNT DUE: \$6,875

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2009 AUG 17 P 2:54

August 17, 2009

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: ROBERT A. HICKEY *RF* RH  
STAFF DIRECTOR

FROM: JOHN D. GIBSON *JG*  
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC for PC*  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE *NI*/RHIANNON MAGRUDER *RM*/SARI PICKERALL  
COMPLIANCE BRANCH

SUBJECT: ADMINISTRATIVE FINE PROGRAM – FINAL DETERMINATION  
RECOMMENDATION FOR THE 2009 APRIL QUARTERLY REPORT

Attached are two lists of political committees and their treasurers against which the Commission has found reason to believe (RTB) and assessed proposed civil money penalties calculated at RTB for failure to file or failure to timely file the 2009 April Quarterly Report. The first list represents the committee that has paid the civil money penalty and the second list represents the committees that have not paid the civil money penalty. The committees that have not paid have been given at least forty (40) days from the date of the Commission's RTB finding to remit payment.

In accordance with 11 CFR § 111.34 and 11 CFR § 111.40, the Commission shall send a final determination notice to those respondents that have either paid or not paid the civil money penalty.

For your information, all committees disclosed a level of activity after the RTB finding which would result in a lowered civil money penalty at Final Determination (FD). The cases are detailed below.

Baldermann for Congress (AF 2093) filed the 2009 April Quarterly Report after the RTB finding and disclosed a level of activity which would result in a lowered civil money penalty. The committee disclosed total receipts and disbursements of \$2 (previously estimated to be

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\$157,306), thus the fine would be lowered from \$6,050 to \$2.

RAD recommends that the Commission make a final determination against the committee and its Treasurer<sup>1</sup> and assess no civil money penalty in AF 2093.

Kenneth Eaton for US Senate 2008 (AF 2094) filed the 2009 April Quarterly Report after the RTB finding and disclosed no activity (previously estimated to be \$170,061), which would result in no civil money penalty (fine previously assessed to be \$6,875).

Raul Martinez for Congress (AF 2096) paid the civil money penalty assessed at RTB (see the first attached list). However, the committee filed the 2009 April Quarterly Report after the RTB finding and disclosed a level of activity which would result in a lowered civil money penalty. The committee disclosed total receipts and disbursements of \$4,546 (previously estimated to be \$539,222), thus the fine would be lowered from \$9,500 to \$250. We will therefore issue a refund for the difference (\$9,250).

Scontras for Congress (AF 2097) filed the 2009 April Quarterly Report after the RTB finding and disclosed no activity (previously estimated to be \$129,423), which would result in no civil money penalty (fine previously assessed to be \$4,500).

Vernon Jones for Georgia (AF 2098) filed the 2009 April Quarterly Report after the RTB finding and disclosed no activity (previously estimated to be \$190,636), which would result in no civil money penalty (fine previously assessed to be \$6,875).

**RAD Recommendation**

- (1) Make final determination that the political committees and their treasurers listed on the attached reports violated 2 U.S.C. § 434(a) and assess the final civil money penalties so indicated.
- (2) Send the appropriate letters.

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Federal Election Commission  
FD Circulation Report Fine Paid  
2009 APRIL QUARTERLY Not Election Sensitive 04/15/2009 H\_S\_P

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Final Money Penalty	Date Paid	Amount Paid
2096	RAUL MARTINEZ FOR CONGRESS	MARTINEZ, RAUL L	C00444331	ELIZA RASSI	07/21/2009	Not Filed	\$4,548	0	08/15/2009	\$9,500	\$250	7/22/2009	\$9,500 <sup>1</sup>

<sup>1</sup> The committee paid the civil money penalty assessed at RTB. Due to a lower civil money penalty assessed at FD, a refund of \$9,250 will be issued.

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Federal Election Commission  
FD Circulation Report Fine Not Paid  
2009 APRIL QUARTERLY Not Election Sensitive 04/15/2009 H\_S\_P

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Days Since RTB	FD Penalty
2083	BALDERMANN FOR CONGRESS	BALDERMANN, TIM	C00438869	See footnote <sup>1</sup>	07/10/2009	Not Filed	\$2	0	08/15/2009	\$6,050	63	\$0 <sup>2</sup>
2094	KENNETH EATON FOR US SENATE 2008	EATON, KENNETH	C00450858	TONI EATON	08/08/2009	Not Filed	\$0	1	08/15/2009	\$6,875	63	\$0
2086	RAUL MARTINEZ FOR CONGRESS	MARTINEZ, RAUL L	C00444331	ELIZA RASSI	07/21/2009	Not Filed	\$4,546	0	08/15/2009	\$9,500	63	\$250
2087	SCONTRAS FOR CONGRESS	SCONTRAS, DEAN P.	C00437152	GORDON A DAVIS	08/03/2009	Not Filed	\$0	0	08/15/2009	\$4,500	63	\$0
2088	VERNON JONES FOR GEORGIA	JONES, VERNON A.	C00430959	PATRICIA MOORE	07/27/2009	Not Filed	\$0	1	08/15/2009	\$6,875	63	\$0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Administrative Fines Final Determination )  
Recommendation for the 2009 April )  
Quarterly Report: )  
KENNETH EATON FOR US SENATE ) AF# 2094  
2008, and TONI EATON as treasurer; )

RAUL MARTINEZ FOR CONGRESS, and ) AF# 2096  
ELIZA RASSI as treasurer; )  
SCONTRAS FOR CONGRESS, and ) AF# 2097  
GORDON A DAVIS as treasurer; )  
VERNON JONES FOR GEORGIA, and ) AF# 2098  
PATRICIA MOORE as treasurer; )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby  
certify that on August 18, 2009 the Commission took the following actions on the  
Administrative Fines Final Determination Recommendation for the 2009 April Quarterly  
Report as recommended in the Reports Analysis Division's Memorandum dated  
August 17, 2009, on the following committees:

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AF#2094 Decided by a vote of 6-0 to: (1) make a final determination that KENNETH EATON FOR US SENATE 2008, and TONI EATON as treasurer, violated 2 U.S.C. 434(a) and assess the civil money penalty so indicated; (2) send the appropriate letter. Commissioners Banerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2096 Decided by a vote of 6-0 to: (1) make a final determination that RAUL MARTINEZ FOR CONGRESS, and ELIZA RASSI as treasurer, violated 2 U.S.C. 434(a) and assess the civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2097 Decided by a vote of 6-0 to: (1) make a final determination that SCONTRAS FOR CONGRESS, and GORDON A DAVIS as treasurer, violated 2 U.S.C. 434(a) and assess the civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2098 Decided by a vote of 6-0 to: (1) make a final determination that VERNON JONES FOR GEORGIA, and PATRICIA MOORE as treasurer, violated 2 U.S.C. 434(a) and assess the civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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Federal Election Commission  
Certification for Administrative Fines  
August 18, 2009

Page 3

Attest:

August 20, 2009  
Date

Mary W. Dove  
Mary W. Dove  
Secretary of the Commission

29092642970



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 21, 2009

Toni Eaton as Treasurer  
Kenneth Eaton for US Senate 2008  
200 Church St., Suite 301  
Nashville, TN 37201

C00450858  
AF#: 2094

Dear Ms. Eaton:

On June 15, 2009, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Kenneth Eaton for US Senate 2008 and its treasurer violated 2 U.S.C. § 434(a) for filing late or failing to file the 2009 April Quarterly Report. By letter dated June 26, 2009, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$6,875 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. The amount of the civil money penalty has been changed to reflect the actual level of activity on the 2009 April Quarterly Report.

The FEC made a final determination on August 18, 2009 that you as treasurer and Kenneth Eaton for US Senate 2008 violated 2 U.S.C. § 434(a), assessed no civil money penalty in accordance with 11 C.F.R. § 111.43, and voted to close the file.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink, which appears to read "Steven T. Walther".

Steven T. Walther  
Chairman

29092642971



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2094

DATE SCANNED 10-15-01

SCANNER NO. 2

SCAN OPERATOR Ju W

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